

plant is eventually constructed it would play a role in alleviating issues that Wooton said exist with potential water supply issues in eastern Kentucky.

"In the work that I've done, that's one of the things I came to notice real soon," he said. "We're on the cusp of a water supply problem in our region."

Though Wooton reiterated that this project remains in the very early stages, he envisions a treatment plant that could hook into other systems that could in turn supply areas in times of emergency, such as one Buckhorn experienced in 2010 when a water-line break shut down service in the area for over a week.

"We need to get all of our systems linked together, because sooner or later everybody has some kind of problem and will need supplies, at least for a while," he said.

Also in conjunction with the fiscal court, the city is working on a horse trail that would begin at the new Eagles Landing campground in Gays Creek and wind along the lake to the lodge, and perhaps with further development tie in with a trail in nearby Leslie County. Wooton said plans are being drafted, and he expects a company working on the project to give the council a progress report at their next regular meeting.

"We think that will be a nice addition to the area," he said.

NOMINATION OBJECTION

Mr. GRASSLEY. Mr. President, today, I am announcing my intention to object to any unanimous consent request to call up and confirm the nomination of Mr. Jeh Johnson to be the Secretary of the Department of Homeland Security.

As ranking member of the Senate Judiciary Committee, I, along with other Senators on the committee, wrote a letter to Mr. Johnson last Friday and asked his views on a number of important matters, including our Nation's immigration policies and the fair treatment of whistleblowers. We asked if he would cooperate with us on oversight matters and work with us to improve immigration policies going forward. We have not yet received a response from Mr. Johnson.

Because the Judiciary Committee has primary responsibility over immigration matters, it is necessary to know any nominee's position on immigration policies before we can consent to the confirmation of a Secretary to head this very critical department. So, until we receive responses from Mr. Johnson to our letter, I will object to any unanimous consent agreement to move his confirmation.

I ask that a copy of the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, November 15, 2013.

Mr. JEH JOHNSON,
2001 K Street NW.,
Washington, DC.

DEAR MR. JOHNSON: As members of the Senate Judiciary Committee, we have an important responsibility to conduct oversight of the Department of Homeland Security

(DHS), which has a broad and critical mission and houses several different agencies with varying functions. Our committee has primary responsibility over immigration matters, and we believe it necessary to know any nominee's position on immigration policies before we can consent to the confirmation of a Secretary to head this very critical department. We also seek your commitment in cooperating on oversight matters and working with us to improve immigration policies going forward.

At your confirmation hearing, you stated that, "[i]f confirmed, I will work to implement all legislation enacted into law." While we may have different views than President Obama on how to reform our immigration system, we have all repeatedly expressed our strong disapproval of the refusal of this administration—and DHS in particular—to enforce our immigration laws, contradicting duly enacted federal law through administrative orders and internal memoranda. These actions have eroded the rule of law and undermined Americans' confidence in their government. We hope that you will commit to discontinuing these lawless policies if confirmed.

So that we may properly carry out our constitutional duty, we request that you provide answers to the questions below on the important issues that you will confront if confirmed as Secretary of DHS.

GENERAL

1. In what ways, if any, would you depart from former Secretary Napolitano's policies?

2. Do you find any of former Secretary Napolitano's actions, or any current DHS policies, to be objectionable? If so, what? What would you do differently?

3. Will you pledge to cooperate with congressional oversight efforts and be responsive to all congressional requests for information in a timely manner?

4. Do you believe whistleblowers who know of problems with matters of national security should be prevented from bringing that information to Congress?

5. Will you commit to ensuring that every whistleblower is treated fairly and that those who retaliate against whistleblowers are held accountable?

6. Given your past involvement in President Obama's political campaigns, how would you maintain your independence from the White House as one of our nation's top law enforcement officers?

IMMIGRATION

1. If confirmed as the head of the Department, you will be responsible for the enforcement of the country's immigration laws. Do you have any background or leadership experience in the area of immigration law or immigration policy?

2. If confirmed, it will be your job to implement our nation's immigration laws. In your testimony before the Senate Homeland Security and Government Affairs Committee, you stated that you support "comprehensive, common-sense immigration reform." Accordingly, we would like to know your position regarding the following:

a. Should people here illegally be eligible for immigration benefits, including legal status? If so, should those individuals be responsible for all costs associated with it? Should taxpayers shoulder any of the burden?

b. Should people here illegally who are in removal proceedings be eligible for immigration benefits, including legal status?

c. Should people who are subject to an order of removal from the United States by the Department of Homeland Security be eligible for immigration benefits, including legal status?

d. Should an illegal immigrant convicted of a felony criminal offense be eligible for immigration benefits, including legal status?

e. Should an illegal immigrant convicted of multiple misdemeanors be eligible for immigration benefits, including legal status?

f. Should illegal immigrant gang members be eligible for immigration benefits, including legal status?

g. If an illegal immigrant provides information in an application that is law enforcement sensitive or criminal in nature, should that information be used by our government and not be protected under confidentiality provisions? If an illegal immigrant provides information in an application that clearly renders him ineligible and commits a serious crime that would warrant his immediate removal, shouldn't the government be able to use that information to place him in removal proceedings?

h. Should people here illegally be required to submit to an in-person interview with adjudicators when applying for immigration benefits, including legal status?

i. Should people here illegally that have been denied legal status be placed in immigration proceedings and removed? If not, why not?

j. If the Secretary of Homeland Security must revoke a visa for someone on U.S. soil, should that decision be reviewable in the U.S. courts?

k. In 1996, after the 1993 World Trade Center attack, Congress mandated that the immigration service, with cooperation from schools and universities, collect information on foreign students. This system took years to get up and running. In fact, it still wasn't in place on 9/11. While it is operational today, there is still work to be done to make that system effective. Most recently, the Department stopped all efforts to upgrade the system. Do you intend to make SEVIS upgrades a priority, if confirmed?

3. As a result of some of the actions of Secretary Napolitano, particularly her Directive entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," several ICE agents, including the President of the ICE agents and officers union, the National ICE Council, Chris Crane, filed a complaint against Secretary Napolitano stating that "the Directive commands ICE officers to violate federal law . . . violate their oaths to uphold and support federal law, violates the Administrative Procedure Act, unconstitutionally usurps and encroaches upon the legislative powers of Congress, as defined in Article I of the United States Constitution, and violates the obligation of the executive branch to faithfully execute the law, as required by Article II, Section 3, of the United States Constitution." Moreover, Kenneth Palinkas, the president of the National Citizenship and Immigration Services Council, has likewise charged that USCIS employees are required by the agency "to grant immigration benefits to those who, under law, are not properly eligible." In short, her actions have caused a great deal of discontent among immigration officers and agents, to say the least. Accordingly, if confirmed, what will you do to improve the morale of immigration officers and agents who are concerned about these non-enforcement protocols issued by Secretary Napolitano?

4. In the more than four years that she served as Secretary of the DHS, Secretary Napolitano never agreed to meet with the National ICE Council, the union that represents more than 7,000 agency employees, or the National Citizenship and Immigration Services Council, the union that represents 12,000 agency employees. Will you meet with representatives from these unions and, if so, when?

5. During the first five years of the Obama administration, Secretary Napolitano and former ICE Director John Morton issued numerous policy memoranda that order ICE

agents to restrict their enforcement of immigration laws to illegal immigrants who have been convicted of violent crimes. If confirmed, will you continue that policy?

6. Do you agree that a person who is in the United States in violation of U.S. immigration law is subject to removal?

7. Among the aforementioned memoranda issued by former ICE Director Morton, the memo dated March 2, 2011, designates immigration fugitives as a priority for removal. Do you agree that illegal immigrants who ignore deportation orders should be removed from the United States?

8. Among the aforementioned memoranda issued by former ICE Director Morton, the memo dated November 17, 2011, identifies an illegal immigrant with a conviction for drunk driving as a priority for removal. Do you agree that an illegal immigrant who has been convicted of a drunk driving offense should be removed from the United States?

9. All federal employees take an Oath, codified at 5 U.S.C. 3331, to “support and defend the Constitution of the United States . . . and that [they] will well and faithfully discharge the duties of the office on which [they] about to enter.” How can an employee fulfill his or her oath if such an employee is threatened with reprisal for executing the laws enacted by Congress to which they are entrusted to administer, and for not complying with an administratively-created command to the contrary?

10. In June 2012, Secretary Napolitano issued a memorandum ordering the implementation of the Deferred Action for Childhood Arrivals (DACA) program.

a. If confirmed, will you continue this program?

b. Do you believe that the President has the legal authority to expand DACA through executive, regulatory or policy prerogatives?

11. Do you believe that the issuance of prosecutorial discretion directives, such as those mentioned above, is within the legal authority of the Secretary of Homeland Security?

12. Since *Zadvydas v. Davis*, 533 U.S. 678 (2001), Congress has attempted to pass legislation that would amend the Immigration and Nationality Act to authorize DHS to detain criminal aliens beyond six months. Would you support such legislation?

13. In September 2011, Secretary Napolitano suspended the Border Patrol’s practice of routinely screening mass transportation vehicles and transportation hubs near U.S. borders, which prompted a strong objection by the National Border Patrol Council. If confirmed, would you reverse this policy? If not, why?

14. Beginning in 2010, DHS has included in its statistics for ICE removals the number of illegal immigrants apprehended by the Border Patrol and then transferred to ICE for processing. Do you support this policy?

15. In January 2012, the DHS Inspector General released a report criticizing USCIS for pressuring its employees to rubberstamp applications for immigration benefits. In that report, nearly 25 percent of USCIS officers surveyed said supervisors had pressured them to approve applications that should have been denied.

a. Do you believe that current USCIS screening procedures are sufficient to prevent fraud and threats to public safety and national security?

b. If confirmed, would you change these policies? If so, how?

c. Will you commit to ensuring that USCIS background checks for every applicant for immigration benefits are properly and effectively conducted?

d. Should employee performance evaluations at USCIS be linked to the number of applicants for benefits approved, or adjudicated?

16. Recently, the U.S. arrested a legal immigrant in Illinois who had been convicted and served ten years in an Israeli prison for her role in two terrorist bombings. According to press reports, she was able to obtain both a green card (in 1995) and citizenship (in 2004) by simply omitting her conviction on her applications. She continued to live in the U.S. for years despite the fact that the conviction was public knowledge. Are you confident that the current processes for screening applicants for immigration benefits are able to identify and keep out criminals and individuals who pose a threat to national security?

17. Some have argued that immigration judges should be granted broad discretion to allow an illegal immigrant who should be removed from the country to stay by waiving current bars to admission and removal grounds for numerous crimes (such as drug crimes, firearms offenses, domestic violence, fraud, high speed flight at a checkpoint, and crimes involving moral turpitude) if the judge finds that the illegal immigrant’s removal will cause hardship to a citizen or lawful permanent resident or if the judge believes it is in the public interest. Do you agree with this approach? If so, please explain why and specifically, whether you believe current immigration law is too harsh with respect to illegal immigrants who engage in this type of criminal conduct.

18. On December 21, 2012, ICE announced that it decided not to renew any of its agreements with state and local law enforcement agencies that operate task forces under the 287(g) program, stating that “other enforcement programs, including Secure Communities are more efficient use of resources.” However, Secure Communities serves a completely separate and distinct function. The 287(g) program trains local officers to determine whether an individual is lawfully present, including those with no prior contact with immigration services. Secure Communities allows local law enforcement to identify illegal immigrants only after they have been booked into jail and if their fingerprints are already in immigration databases. Moreover, ICE’s own website touts the 287(g) program as “one of ICE’s top partnership initiatives.” The website used to advertise the success of the program: “Since January 2006, the 287(g) program is credited with identifying more than 304,678 potentially removable aliens—mostly at local jails.” Such statistics appear to have since been removed. If confirmed, will you commit to enter into 287(g) agreements with a qualified requesting state or local jurisdiction?

19. After being criticized by certain special-interest groups, the administration essentially halted all worksite enforcement actions. According to the non-partisan Congressional Research Service, in 2011, worksite enforcement actions resulted in the arrest of 1,471 illegal workers out of an estimated 8 million—.0001 percent. In the same year, only 385 employers out of 6 million were fined for hiring illegal workers. If confirmed, will you commit to reinstating worksite enforcement, including enforcing immigration law with respect to illegal alien employees?

20. If confirmed, what specific measures will you implement to ensure that the Department of Homeland Security is in compliance with all legal requirements of the Secure Fence Act of 2006 (P.L. 109-367)?

21. In 2010, Secretary Napolitano suspended our nation’s only comprehensive border security measurement, known as the operational control metric. More than three years have passed, and the Department of Homeland Security has failed to replace this metric. If confirmed, would you hold your department accountable by regularly releasing a com-

prehensive border security metric that measures the percentage of illegal border crossers that escape apprehension by the Department of Homeland Security?

22. Do you believe that the Department of Homeland Security has the ability to achieve operational control of every sector of our Southern border? If confirmed, would you commit your department to achieving this standard?

23. Do you support the transfer of unused and unarmed Department of Defense assets, such as detection and communications equipment, to the Southern border in order to help DHS achieve operational control of every sector of the Southern border?

24. Our Southern border ports of entry are outdated and in a state of disrepair—harming legitimate trade and travel, while making our nation more vulnerable to sophisticated criminal and terrorist organizations. If confirmed, what specific measures would you take to revitalize and improve security at our Southern border ports of entry?

25. Do you support making E-Verify permanent and mandatory for all employers?

26. Serious national security issues have come to light in recent months with respect to the EB-5 Regional Center program, which allows foreign nationals to obtain a green card if they invest in the United States.

a. Do you concur that more needs to be done to reduce national security risks and to prevent fraud and abuse in the program?

b. Do you have any plans to administratively improve the program?

c. Will you make it a priority if you are confirmed?

27. DHS currently receives a portion of funds from each H-1B visa application and provides these funds to USCIS for fraud and abuse prevention efforts. However, ICE has a responsibility to prosecute the cases but does not receive any of these funds. Will you

28. Oversight conducted by the Judiciary Committee has revealed that DHS is not enforcing the law prohibiting the admission into the country of those who would be a public charge. This has been confirmed by ICE and USCIS officers and data on both admissions and removals. Oversight also discovered a number of administration activities, including advertisements in immigration materials and at foreign embassies, encouraging foreign nationals to use federal welfare programs. Can you please describe, in detail, how you would restore vigorous enforcement of the public charge law to protect taxpayers, including what efforts you would undertake to reduce noncitizen enrollment in means-tested welfare programs? Please be specific in your answer.

29. Dating back to 1996, Congress has mandated in six statutes that a biometric entry-exit system be implemented. In 2012, Rebecca Gambler, GAO’s Director of Homeland Security and Justice Issues, testified before the Judiciary Committee that “DHS faces challenges in identifying overstays due to its general reliance on biographic entry and exit information, rather than biometric information, hindering DHS’s efforts to reliably identify overstays. . . . Without [biometric] exit capability, DHS cannot ensure the integrity of the immigration system by identifying and removing those people who have overstayed their original period of admission—a stated goal of US-VISIT.” For precisely that reason, a biometric—and not a biographic—exit system must be implemented to achieve real border security. Secretary Napolitano refused to implement such a system, variously claiming it was too expensive and/or that the technology did not exist. However, an internal 2009 DHS report found conclusively that biometric exit is effective and efficient, and current data from industry demonstrates that the technology is affordable.

a. Do you disagree with GAO or that a biometric exit system must be implemented to ensure real border security?

b. Do you acknowledge that federal law requires DHS to implement a biometric entry-exit system?

c. If confirmed, will you commit to implementing this system within one year?

We appreciate your pledge of “transparency and candor with Congress,” and look forward to your prompt response.

Sincerely,

CHUCK GRASSLEY.
JEFF SESSIONS.
MICHAEL S. LEE.
ORRIN HATCH.
JOHN CORNYN.
TED CRUZ.

REMEMBERING ROBERT C. BYRD

Mr. MANCHIN. Mr. President, today I wish to observe the birthday of one of the greatest Americans to grace these Chambers—Cornelius Calvin Sale Jr., better known to us—and to history—as Robert C. Byrd of West Virginia.

Robert C. Byrd was born Cornelius Calvin Sale Jr. in North Wilkesboro, NC. He was 10 months old when his mother died from flu, and he was adopted by his aunt and uncle, Titus and Vlurma Byrd. They changed his name to Robert Carlyle Byrd and raised him in the coal-mining Appalachian region of West Virginia.

And in the 150 years of West Virginia’s history, our State has had no greater advocate than Robert C. Byrd. Many in the Senate today served with Robert C. Byrd, and they can bear witness to the fact that the Senate, like the State of West Virginia, also had no greater advocate than Robert C. Byrd. Today would have been the Senator’s 96th birthday, and every day since his passing in 2010, the people of West Virginia feel the loss of this great man.

The Senate also feels his loss because no one knew the Senate—its history, its traditions, its precedents—better than Robert C. Byrd.

He made it a point to meet with every new Senator and to impress upon them the fact that they were to be caretakers of this institution—an institution he regarded as both the morning star and the evening star of the American constitutional constellation. He also impressed upon them that they did not serve “under” any president, but that as a separate but equal branch of the government, they served “with” presidents, acting as a check on the executive’s power. When he passed away, he was the longest serving member of Congress in our Nation’s history and, as such, served with 11 Presidents.

In his long life, Robert C. Byrd had three great loves—his wife “fair” Erma, as he called her; the State of West Virginia; and the United States Senate. But he also had a great passion for the document from which the Senate and this great country sprang—the U.S. Constitution. I have always thought that is why he kept a copy of the Constitution in his coat pocket—it was easy to reach for quick reference, but in his coat pocket, it also was close

to his heart. Even though he could recite most of it by memory, he consulted his dog-eared copy of the Constitution often and without hesitation. In its words, he often said, he always found wisdom, truth and excitement—the same excitement he felt as a boy in Wolf Creek Hollow, WV, reading by kerosene lamp about the heroes of the American Revolution and the birth of our Nation. And those words guided him every day of the 58 years he spent in Washington as a member of Congress and as a Senator.

Robert C. Byrd cast more than 18,500 votes in the Senate—a record that will never be equaled. Whether he voted with others or against them, it was never hard ideology with Robert C. Byrd. He had no use for narrow partisanship that trades on attack and values only victory.

Any time Robert C. Byrd spoke, the Senate came to a halt and Senators on both sides of the aisle leaned forward—to listen and to learn.

He ran for public office 15 times—and he never lost. He was first elected to the West Virginia legislature in 1946 and then was elected to three consecutive terms in the U.S. House of Representatives before his election to the Senate. He was a keen observer of politics—he advised more than one Presidential candidate to go to West Virginia, “get a little coal dust” on their hands and “live in spirit with the working people.”

He was deeply proud of West Virginia and its people. He proudly defended his work to invest Federal dollars in his State.

He breathed new life into many communities with funding for highways, hospitals, universities, research institutes, scholarships and housing—giving West Virginians the opportunities he himself never had.

Robert C. Byrd’s journey was, in many ways, America’s journey. He came of age in an America segregated by race, which he eventually said was one of our country’s greatest mistakes. And, as did America itself, he repented and made amends.

The moments that define the lives of most men are few. Not so with Robert C. Byrd. He devoted his life to his beloved Erma and his family and to public service. He was a major figure in the great panorama of American history for more than half a century. His devotion to the Senate and his colleagues was unequalled. His mastery of Senate rules and parliamentary procedures was legendary. And his contributions to West Virginia and to this Nation were monumental. He was a true giant of the Senate. He is as much a part of this Chamber as these 100 historic desks, these galleries, and these busts of Senate presidents.

Robert C. Byrd revered the Senate and the Senate revered Robert C. Byrd. It is for this reason that I wish to observe the anniversary of the birth of a great West Virginian and great American—Robert Carlyle Byrd.

May God bless his memory and his great spirit.

VOTE EXPLANATION

Ms. LANDRIEU. Mr. President, I regret having missed two votes on November 18, 2013. The two votes that I missed are as follows: motion to invoke cloture on the nomination of Robert L. Wilkins to be a U.S. circuit judge for the DC Circuit and motion to invoke cloture on the motion to proceed to S. 1197, National Defense Authorization Act for Fiscal Year 2014. Had I been present, I would have voted in favor of both motions to invoke cloture.

LONG-TERM CARE NEEDS

Mr. NELSON. Mr. President, with the Thanksgiving holiday, November is a time for many of us to enjoy time with our loved ones and reflect on our futures together. With so many family gatherings, many retirement experts also encourage us to use this time to talk with family about our long-term needs.

In addition to thinking about financial needs for retirement, it is important to also address our health as we age. According to the Department of Health and Human Services, an individual turning 65 today has almost a 70 percent chance of needing long-term care in the future, and 1 in 5 will need long-term care for more than 5 years. Conversations about long-term care and advance care planning can be understandably difficult, but they are necessary to ensure our loved ones receive the care they want if they are no longer able to speak for themselves.

Thinking about long-term care means recognizing the invaluable—but too often unrecognized—contributions made daily by family caregivers. Over 65 million Americans provide \$450 billion worth of unpaid care every year, twice as much as homecare and nursing home services combined, and these numbers are increasing. More than one-half of family caregivers perform intensive activities such as bathing, feeding, and medication management. However, these services often come with a cost to the caregiver, such as financial burdens and a toll on physical and mental health.

As the chairman of the Special Committee on Aging, I want to help middle-class families struggling to provide necessary care for their loved ones. This year, the committee has examined the importance of advance care planning as well as why a majority of Americans have done little to no planning for future long-term care needs. Next month, we will continue this series of hearings by looking at expert recommendations for reforming our long-term care system. Lastly, Senator BALDWIN and I penned a column in recognition of the critical need to address the long-term care inadequacies in this country, and I ask unanimous consent that a copy be printed in the RECORD following my remarks.